

Message Text

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C O N F I D E N T I A L STATE 176305

FOR AMB. STRAUSS AND ASST. SECY. KATZ FROM HORMATS

E.O. 11652: GDS

TAGS:ETRD

SUBJECT: INDIAN CONCERNS RE DEVELOPMENTS AT MTN GENEVA

1. INDIAN ECONOMIC MINISTER BAIJAL THIS AFTERNOON (JULY 12) DELIVERED AN AIDE MEMOIRE (TEXT BELOW). HE STRESSED THE NEED FOR AVOIDING PRESENTING DEVELOPING COUNTRIES WITH A FAIT ACCOMPLI WORKED OUT ONLY AMONG DEVELOPED NATIONS, HIS CONCERN THAT WE ARE ASKING TOO MUCH OF THE DEVELOPING COUNTRIES AND HIS ALARM AT THE EC POSITION ON SELECTED SAFEGUARDS. I STRESSED THAT WHILE I WAS NOT CERTAIN I SUSPECTED THAT THERE WOULD BE AMPLE OPPORTUNITY AFTER THE SUMMIT FOR MEANINGFUL NEGOTIATIONS WITH DEVELOPING COUNTRIES, THAT DEVELOPING COUNTRY CONTRIBUTIONS WERE IN THEIR OWN INTERESTS AND IMPERATIVE IF THEY WERE TO HAVE
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A STRONG NEGOTIATING POSITION IN THE MTN, AND THAT WE TOO OPPOSED A LOOSE REGIME OF SELECTIVE SAFEGUARDS AND INSTEAD FAVORED STRICT SAFEGUARDS ON THE USE OF SAFEGUARDS.

2. AIDE MEMOIRE FOLLOWS: QUOTE CERTAIN DEVELOPMENTS WHICH HAVE RECENTLY TAKEN PLACE AT THE MULTILATERAL TRADE NEGOTIATIONS CURRENTLY UNDER WAY AT GENEVA HAVE CAUSED THE GOVERNMENT OF INDIA SERIOUS CONCERN. THE MAIN DEVELOPMENTS WHICH THE GOVERNMENT OF INDIA VIEWS WITH CONCERN RELATE

TO THE TIME FRAME OF THE NEGOTIATIONS, THE QUESTION OF RECIPROCAL CONTRIBUTIONS BY THE DEVELOPING COUNTRIES AND THE MOVE TO LEGALIZE THE SELECTIVE APPLICATION OF SAFEGUARD ACTION UNDER ARTICLE XIX OF THE GATT. THE DEVELOPMENTS IN THESE AREAS ARE DETAILED BELOW:

TIME-FRAME

AN AGREEMENT TO OPEN A NEW ROUND OF TRADE NEGOTIATION MORE AMBITIOUS IN SCOPE THAN THOSE PREVIOUSLY ATTEMPTED, WAS REACHED AT A MINISTERIAL MEETING HELD IN TOKYO IN SEPTEMBER 1973. THE TOKYO DECLARATION WHICH WAS ADOPTED AT THIS MEETING AIMED AT ACHIEVING EXPANSION AND LIBERALIZATION OF INTERNATIONAL TRADE, IMPROVING THE FRAME WORK FOR THE CONDUCT OF WORLD TRADE AND SECURING ADDITIONAL BENEFITS FOR THE DEVELOPING COUNTRIES. FOR VARIOUS REASONS, THE NEGOTIATIONS WHICH STARTED IN FEBRUARY 1974 DID NOT MAKE MUCH PROGRESS TILL RECENTLY. IN 1977, THE USA AND EEC TOOK A JOINT INITIATIVE TO REVITALIZE THE MTNS AND IT WAS PROPOSED TO CONCLUDE THE SUBSTANTIVE PHASE OF THE NEGOTIATIONS BY MID-JULY 1978. AT THAT TIME THE DEVELOPING COUNTRIES INCLUDING INDIA SUPPORTED THE INITIATIVE HOPING THAT THE INTERESTS OF THE

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DEVELOPING COUNTRIES WOULD ALSO BE KEPT IN VIEW AND THAT SOLUTIONS WOULD BE FOUND BY MID-JULY THIS YEAR.

THE RECENT DEVELOPMENTS HAVE, HOWEVER, BELIED THE EXPECTATIONS OF THE DEVELOPING COUNTRIES. THE PRESENT INTENTION OF THE USA, THE EEC AND JAPAN SEEMS TO BE TO FINALIZE A POLITICAL PACKAGE BY 15TH JULY, FOR PRESENTATION AT THE FORTHCOMING BONN SUMMIT. IN THE FINALIZATION OF THIS PACKAGE THE DEVELOPING COUNTRIES, INCLUDING INDIA, HAVE NOT BEEN CONSULTED ADEQUATELY. MOREOVER, THERE IS APPREHENSION, BASED ON THE PRESENT PROPOSALS OF THE DEVELOPED COUNTRIES, THAT A NEGATIVE BALANCE SHEET WILL EMERGE FROM THE MTNS FOR THE DEVELOPING COUNTRIES. THIS IS CONTRARY TO THE COMMITMENT MADE IN THE TOKYO DECLARATION WHICH CONTEMPLATED ADDITIONAL BENEFITS WITH RESPECT TO THE DEVELOPING COUNTRIES.

WHILE THE USA, THE EEC AND JAPAN HAVE STATED THEIR INTENTION TO CONTINUE NEGOTIATIONS WITH THE DEVELOPING COUNTRIES, THE DANGER OF FIRST SEEKING AGREEMENT AMONG THEMSELVES AND THEN NEGOTIATING WITH THE REST IS THAT THEY WILL FIND IT DIFFICULT TO INCORPORATE THE PROPOSALS OF THE DEVELOPING COUNTRIES AS THESE MIGHT UPSET THE

BALANCE INTER-SE BETWEEN THEMSELVES. AFTER SIX MONTHS OF NEGOTIATION AMONG THEMSELVES THE MAJOR DEVELOPED COUNTRIES HAVE PRESENTED DRAFT CODES ON VARIOUS SUBJECTS ONLY A

FEW WEEKS AGO, AND THE DEVELOPING COUNTRIES HAVE NOT HAD TIME TO EXAMINE THE FULL IMPLICATIONS OF THESE CODES. IN THE AREA OF TARIFFS, LITTLE OR NO RESPONSE HAS BEEN RECEIVED FROM THE MAJOR DEVELOPED COUNTRIES ON INDIA'S REQUEST LISTS ALTHOUGH THE DEVELOPED COUNTRIES HAD INITIALLY STATED THAT THEY WOULD BE WILLING TO CONSIDER SPECIAL AND MORE FAVORABLE TREATMENT TO PRODUCTS OF INTEREST TO DEVELOPING COUNTRIES.

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IN VIEW OF THESE DEVELOPMENTS, GOVERNMENT OF INDIA ARE NOT INCLINED TO ACCEPT THE DEADLINE OF 15TH JULY, 1978 FOR THE CONCLUSION OF THE MTNS ALTHOUGH THEY CONTINUE TO FAVOR THEIR MOST EXPEDITIOUS CONCLUSION.

RECIPROCAL CONTRIBUTIONS

THE OTHER AREA WHICH IS CAUSING GRAVE CONCERN TO THE GOVERNMENT OF INDIA IS WITH REGARD TO THE DEVELOPED COUNTRIES' REQUEST FOR COUNTER CONTRIBUTIONS BY THE DEVELOPING COUNTRIES. THE GENERAL PATTERN FOLLOWED IN TARIFF NEGOTIATIONS IS TO EXCHANGE TARIFF CONCESSIONS WHICH HAVE EQUIVALENT TRADE COVERAGE. SO FAR AS THE DEVELOPING COUNTRIES ARE CONCERNED, HOWEVER, IT HAD BEEN RECOGNIZED IN THE TOKYO DECLARATION THAT THEY WOULD BE ACCORDED DIFFERENTIAL AND MORE FAVORABLE TREATMENT IN THIS CONTEXT. THE DEVELOPED COUNTRIES HAD AGREED NOT TO REDUCE OR REMOVE TARIFF AND OTHER BARRIERS TO TRADE FROM THE DEVELOPING COUNTRIES. THEY ARE COMMITTED NOT TO EXPECT THE DEVELOPING COUNTRIES, IN THE COURSE OF THE TRADE NEGOTIATIONS, TO MAKE CONTRIBUTIONS WHICH ARE INCONSISTENT WITH THEIR INDIVIDUAL DEVELOPMENT, FINANCIAL AND TRADE NEEDS. THIS PRINCIPLE OF THE TOKYO DECLARATION IS BASED ON THE GENERAL PROVISION OF THE GATT RELATING TO DEVELOPING COUNTRIES AS CONTAINED IN ARTICLE XXXVI PARAGRAPH (8) OF PART IV OF GATT.

INDIA'S STAND HAS BEEN THAT THE CONTRIBUTIONS FROM THE DEVELOPING COUNTRIES WILL EMANATE FROM THE EXIGENCIES OF THEIR DEVELOPMENT PLANS AND POLICIES AND WILL NOT BE AS A RESPONSE TO THE REQUEST OF THE DEVELOPED COUNTRIES. IN ACCORDANCE WITH THIS, GOVERNMENT OF INDIA HAVE TAKEN SEVERAL MEASURES TO LIBERALIZE THEIR IMPORT POLICIES.

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FURTHERMORE, CUSTOMS DUTIES HAVE BEEN REDUCED ON A LARGE NUMBER OF ITEMS. GOVERNMENT OF INDIA HAVE INFORMED THE PARTICIPATING COUNTRIES, THROUGH A NOTIFICATION TO THE DIRECTOR GENERAL, GATT, THAT THESE LIBERALIZATION

MEASURES CONSTITUTE THEIR CONTRIBUTION TO THE MTNS.
HOWEVER, GOVERNMENT OF INDIA HAVE RECEIVED CERTAIN
REQUESTS FROM THE DEVELOPED COUNTRIES SEEKING CONCESSIONS

WITH REGARD TO BOTH TARIFFS AND NON-TARIFF MEASURES.
THESE REQUESTS ARE NOT IN CONSONANCE WITH INDIA'S DEVELOP-
MENT AND TRADE NEEDS. JAPAN ALONE AMONG THE MAJOR
DEVELOPED COUNTRIES HAS NOT SOUGHT ANY CONTRIBUTIONS FROM
INDIA, BUT THEN IT HAS NOT RESPONDED AT ALL TO INDIA'S
REQUEST LISTS. OTHER COUNTRIES AND PARTICULARLY THE USA
AND THE EEC ARE NOT INCLINED TO CONSIDER CONCESSIONS
TO DEVELOPING COUNTRIES WITHOUT THE LATTER RESPONDING TO
THEIR REQUEST LISTS. GOVERNMENT OF INDIA FEEL THAT INDIA
IS BEING ASKED TO MAKE CONTRIBUTIONS WHICH ARE FAR MORE
SIGNIFICANT THAN THE GAINS THAT WILL ACCRUE TO HER FROM
THE TARIFF CONCESSIONS THAT HAVE BEEN OFFERED.

GROUP "SAFEGUARDS"

THE NEGOTIATIONS IN GROUP "SAFEGUARDS" FOR REFORM OF
INTERNATIONAL SAFEGUARDS FORM ONE OF THE MOST IMPORTANT
AREAS OF THE MTNS. THE PROPOSAL UNDER CONSIDERATION IS
TO EVOLVE A CODE WHICH WOULD MAKE THE PRACTICE OF
APPLICATION OF THE GATT PROVISIONS UNIFORM AND LESS
ARBITRARY. SUCH ACTION WOULD BE SUBJECT TO A MULTILATERAL
SURVEILLANCE SYSTEM. ONE DEVELOPMENT WHICH IS CAUSING
CONCERN TO US IN THIS AREA IS THE EEC'S PROPOSAL FOR
LEGALIZING SELECTIVE APPLICATION OF SAFEGUARD ACTION.

THE MOST FUNDAMENTAL PRINCIPLE OF THE GATT IS THE MOST
FAVORABLE NATION RULE, WHICH SPECIFIES THAT TRADE
MEASURES INSTITUTED BY ONE GATT MEMBER COUNTRY MUST
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IMMEDIATELY AND UNCONDITIONALLY APPLY TO ALL OTHERS
WITHOUT ANY DISCRIMINATION. THE PROPOSAL BEING
CHAMPIONED BY THE EEC IS THAT ALTHOUGH NON-DISCRIMINATORY
APPLICATION OF SAFEGUARDS MAY REMAIN THE GENERAL RULE,
COUNTRIES SHOULD HAVE THE POSSIBILITY OF TAKING SELECTIVE
MEASURES. SUCH A SELECTIVE APPLICATION OF SAFEGUARD
MEASURE, IT IS ARGUED, IS NEEDED "TO CORRECT THE PRESENT
PARADOXICAL SITUATION IN WHICH EXPORTS FROM COUNTRIES NOT
RESPONSIBLE FOR THE SERIOUS INJURIES ARE ALSO AFFECTED BY
SAFEGUARD MEASURES". THE USA IS NOT OPPOSED TO THE
PRINCIPLE OF THE SELECTIVE APPLICATION OF SAFEGUARD
MEASURES. JAPAN AFTER INITIAL HESITATION IS UNDERSTOOD
TO HAVE AGREED TO THE SELECTIVE APPROACH SUBJECT TO
EITHER AGREEMENT OF THE AFFECTED EXPORTING COUNTRIES OR
AUTHORIZATION BY THE SURVEILLANCE BODY.

GOVERNMENT OF INDIA FEEL THAT SELECTIVE SAFEGUARD ACTION
WILL BE NEGLIGENT OF INDIA'S INTERESTS FOR THE FOLLOWING

REASONS:

A) IF SAFEGUARD ACTION IS TAKEN AGAINST ALL IMPORTS

INDIA HAS THE PROTECTIVE SHIELD OF RETALIATORY POWER OF THE DEVELOPED COUNTRIES WHO ARE ALSO AFFECTED. THE BARGAINING POWER OF THE EXPORTING COUNTRIES WOULD THUS BE INCREASED.

B) IN THE CASE OF THE MULTI-FIBRE ARRANGEMENT, INDIA HAS FOUND THAT THE DEVELOPED IMPORTING COUNTRIES COULD EASILY ISOLATE THE PRODUCTS ORIGINATING FROM DEVELOPING COUNTRIES ON THE BASIS OF THEIR LOWER PRICE. IF SELECTIVE ACTION IS PERMITTED, THE DEVELOPING COUNTRIES' EXPORTS WILL BE AN EASY TARGET FOR SUCH ACTION.

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C) A SAFEGUARD MEASURE, BY ITS NATURE BEING A TEMPORARY PROTECTIVE MEASURE, IS LIKELY, IF TAKEN AGAINST ONLY A PARTICULAR SOURCE OF IMPORTS, TO PERPETUATE ITSELF, AS HAS HAPPENED IN CASE OF THE AGREEMENTS UNDER THE MFN.

GOVERNMENT OF INDIA FEEL THAT IN THE ATMOSPHERE OF PROTECTIONISM NOW PREVALENT IN THE DEVELOPED COUNTRIES, LEGALIZATION OF THE SELECTIVE APPLICATION OF SAFEGUARD ACTION WILL RESULT IN PROLIFERATION OF SUCH MEASURES AND THUS THE GAINS OF TARIFF REDUCTION WILL BE SYSTEMATICALLY ERODED AND NULLIFIED IN SO FAR AS THE DEVELOPING COUNTRIES ARE CONCERNED. END QUOTE. CHRISTOPHER

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